

May 22, 2020

Development Review Board
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Department of Permitting and Inspections
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Re: Zoning Permit Application for Conditional Use
36-38 South Union Street

Ladies and Gentlemen of the Board:

This firm represents Jennifer Fabiano in her application for a hostel at 36-38 South Union Street. Please accept this letter as an advanced request for a 50% waiver of the Housing Replacement Fee pursuant to Section 9.2.9 of the City of Burlington Comprehensive Development Ordinance.

Section 9.2.9 provides as follows:

Any owner who has applied for approval for demolition or conversion of a housing unit or units may apply to the DRB for relief from the housing replacement requirements of Section 9.2.5. Such relief may be a downward adjustment of up to fifty percent (50%) of the owner's housing replacement obligation if the owner establishes to the board's satisfaction that:

(a) The literal interpretation and strict application of the housing replacement requirement would be impossible for the owner;

(b) The requested relief would be consistent with the spirit and purpose of this Article; and

(c) The requested relief does not constitute a grant of special privilege inconsistent with the limitations upon similar properties.

The DRB must make positive findings on each of the three (3) criteria above in order for any such adjustment to be valid.

In support of the waiver and with respect to Subsection (a), meeting the requirements of the replacement cost would likely be impossible for Ms. Fabiano. At this time, Ms. Fabiano does not have the Sixty-Seven Thousand Five Hundred Ninety-Four Dollars and Forty-Four Cents (\$67,594.44). The Covid-19 epidemic has presently devastated her ability to earn a living. Moreover, Ms. Fabiano is a single mother of a small child, raising this child alone and with no significant means of financial support from others. The imposition of this fee presents an insurmountable hardship.

With respect to subsection (b), the grant of the waiver is consistent with the spirit and

purpose of the Article. Article 9 says that one of its goals is to preserve housing opportunities for low to moderate income Vermonters. Upon information and belief, this property was rented to students prior to it being leased by Ms. Fabiano.

Accordingly, the property was never being occupied by low income Vermonters in the first place. Conversion of this property to a hostel by Ms. Fabiano actually gives one of those low income Vermonters an opportunity to excel and earn a self-sustaining living.

The conversion of this property empowers a single mom and child. Moreover, conversion of this property creates reduced-rate, short-term housing. This lower cost short-term housing is an alternative to high priced temporary housing by way of expensive down town hotels. Ms. Fabiano's hostel serves tenants such as traveling nurses and other persons seeking affordable, short-term housing. Some of these customers provide work force contribution and having an affordable short-term housing solution is also vitally important to the overall housing inventory.

The proposed use does not introduce more market rate housing into downtown Burlington. The proposed use assists with introducing an economically integrated housing supply, because this type of affordable, temporary housing does not really exist in Burlington. Temporary workers do not have affordable rental options in the downtown area. Instead, they are left with renting out of town or going to high priced hotels.

This use does not contribute to overcrowding and the deterioration of affordable housing. Again, this property was not affordable housing to begin with so this use does not contribute to the deterioration of affordable housing. Second, short-term housing is also an important component of the overall housing supply. This use represents an affordable alternative for that purpose.

With respect to subsection (c), the grant of this waiver request would not represent the grant of special privileges. Special privileges do not exist, by definition, if an applicant satisfies the requirements of the test set forth in section 9.2.9. The privilege of a waiver would be afforded by virtue of meeting the criteria set forth in the regulation. Whether a similar property and use would be afforded a waiver would be dependent on the facts and circumstances of the request.

Accordingly, based on the above we, respectfully, believe that the facts and circumstances of this request support this Board's grant of a waiver by 50 percent. We appreciate your consideration.

Sincerely,

Monaghan Safar Ducham PLLC



Claudine C. Safar, Esq.